



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

MATTER OF A-A-, INC.

DATE: SEPT. 11, 2018

**APPEAL OF TEXAS SERVICE CENTER DECISION**

**PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER**

The Petitioner, a sugar distributor, seeks to employ the Beneficiary as a senior trader. It requests his classification under the second-preference, immigrant classification as a member of the professions holding an advanced degree. Immigration and Nationality Act (the Act) section 203(b)(2)(A), 8 U.S.C. § 1153(b)(2)(A). This employment-based, “EB-2” category allows a U.S. business to sponsor a foreign national for lawful permanent resident status to work in a position requiring at least a master’s degree, or a bachelor’s degree followed by five years of experience.

The Acting Director of the Texas Service Center denied the petition. The Director concluded that the Petitioner did not demonstrate its required ability to pay the position’s proffered wage. *See* 8 C.F.R. § 204.5(g)(2) (requiring a petitioner to establish its continuing ability to pay a proffered wage, from a petition’s priority date until a beneficiary obtains lawful permanent residence).

As of the Director’s decision, required evidence of the Petitioner’s ability to pay the proffered wage from the petition’s priority date onward was not yet available.<sup>1</sup> *Id.* (requiring a petitioner to submit copies of annual reports, federal income tax returns, or audited financial statements). As a result, the Director primarily based his decision on tax returns for periods before the priority date. In response to our notice of intent to dismiss, however, the Petitioner submitted required evidence establishing its ability to pay the proffered wage from the priority date. As such, the Petitioner had established eligibility for the benefit sought.

**ORDER:** The appeal is sustained.

Cite as *Matter of A-A-, Inc.*, ID# 1522739 (AAO Sept. 11, 2018)

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<sup>1</sup> The petition’s priority date is May 24, 2017, the date the U.S. Department of Labor accepted the accompanying labor certification application for processing. *See* 8 C.F.R. 204.5(d) (explaining how to determine a petition’s priority date).